

EXHIBIT 3

Sana Mayat

From: Anna Friedberg <afriedberg@tillidgroup.com>
Sent: Tuesday, September 12, 2023 12:39 PM
To: khaas; Neufeld, Sheryl (Law); 'Scheiner, Alan (Law)'; mlwerlwas; 'Powell, Jeffrey K. (USANYS) 4'; 'Iodice, Ashley (Law)'; 'Wolecki, Hilary'; ksimpson; Debbie Greenberger; Jonathan S. Abady; Vasudha Talla; Sana Mayat; 'Brar, Jenu (Law)'; 'Khan, Mariam (LAW)'; 'Mooklal, Stefan (LAW)'; 'Relkin, Rachel (Law)'; 'Waite, Tisha (Law)'; 'Eshkenazi, Lara (USANYS)'; 'Joyce, Kimberly (DOC)'; 'LawNunezTeam'; 'Schemitsch, John (Law)'; 'Connard, Christopher'
Cc: Steve Martin; Nunez-NYC
Subject: [EXTERNAL] Nunez: Update on Responses to 07/28; 8/31 and 9/6 Requests
Attachments: 2023-09-12 - MT Reply to 09-06 Requests.docx; 2023-09-12 - MT Reply to 08-31-23 Requests.docx; 2023-09-12- MT Reply to 7-28 Requests.docx; 2023-09-12 - Policies Response to 08-31-23 Requests.zip

This Message originated outside your organization.

All,

We follow-up to share additional updates on the various requests for information as outlined below. We last updated the Parties on September 6, 2023 with two separate emails (one sent at 12:41 pm and one sent at 4:40 pm).

1. **July 28, 2023 Requests:** attached is an updated chart with responses. New responses are labeled with today's date. The outstanding items are requests 5, 9, 10, 14, 19, and 25 and the items listed below that require input from Defendants. The Monitoring Team will share additional information for the outstanding requests by September 29, 2023.
2. **August 31, 2023 Requests:** attached is an updated chart with responses. New responses are labeled with today's date. We have also attached copies of the requested policies. The outstanding items are requests 1, 2, 6, 8, 10, 12, 13, 21, and 22 and the items listed below that require input from Defendants. The Monitoring Team will share additional information for the outstanding requests by September 29, 2023.
3. **September 6, 2023 Follow-up Requests:** attached is a chart with responses to these requests. New responses are labeled with today's date. The outstanding items are requests 5 and 7 and the items listed below that require input from Defendants. The Monitoring Team will share additional information for the outstanding requests by September 29, 2023.
4. **Items Requiring Position from Defendants:** Outlined below is a comprehensive list all requests in which the Defendants' position on privilege or confidentiality is needed as well as requests for information in which the Monitoring Team has requested that Defendants respond. Please advise ASAP if the Parties believe that this list has any errors. As agreed upon during the meet and confer process, we request that Defendants respond to each of the requests below (including the two requests from September 6, 2023) by **September 15, 2023**.

Thanks,
Anna

Production of Complete NCU Security Audits: **Defendants to propose protective order by September 20, 2023.**

Records related to the July 15, 2023 in-custody death: [This incident is separate from the 5 incidents subject to prior discussions]. It is the Monitoring Team's understanding that the City is objecting to the production of this information as the incident is still under investigation by the Attorney General's office. Awaiting City's final position.

July 28, 2023 Request 8: Records relating to the Illustrative Examples 1-9 in the Monitor's July 10, 2023 report. On August 8, 2023, the Monitoring Team shared a list identifying the UOF or COD numbers for the 9 incidents. 5 of the 9 incidents are UOF incidents and in all 5 cases the closed Intake Investigation was produced in the monthly excels produced by DOC to the Parties. The Monitoring Team does have additional records (including the investigation, video, and reports) for each of the use of force cases and the records for the COD cases. However, the Monitoring Team is withholding production awaiting the Defendants position on whether it intends to exert privilege (or other confidentiality designations) over these cases.

July 28, 2023 Request 14: All documents reflecting operational changes or correction action plans that were developed by a Facility to "reduce the use of excessive or unnecessary force, the frequency of Use of Force Incidents, or the severity of injuries or other harm to Incarcerated Individuals or Staff resulting from Use of Force Incidents." (See First Remedial Order, Section § A, ¶ 2.). The Monitoring Team has responsive documents to this request and an index was shared with the City on August 17, 2023. A copy of the index of the materials in the Monitoring Team's possession be provided to the Parties as part of the response to the July 28, 2023 requests to be shared this week. The Monitoring Team is withholding production of these documents awaiting the Defendants position on whether it intends to exert privilege over these documents or any confidentiality designations.

August 31, 2023 Request 3: The complete Investigation Division files for the following use of force incidents, as well as any information related to the incidents regarding 1) immediate corrective actions (including but not limited to immediate suspensions) taken; 2) any informal discipline such as command discipline imposed; and 3) whether formal disciplinary charges were filed, the status of the proceedings on such charges, and the disposition of such charges. [Plaintiff requested 26 incidents]. The Plaintiffs received the completed Intake Investigations for the requested 26 investigations as part of the Department's monthly production of closed Intake Investigations to the Parties pursuant to the Consent Judgment. The Monitoring Team seeks the City's position on production of these files more generally. We note a few things: (1) all 26 incidents have closed Intake Investigations (which have been produced), (2) the Monitoring Team's records reflect that 16 of the 26 investigations are fully closed, (3) the Monitoring Team records reflect that 10 of the 26 investigations remain pending (with Full ID Cases), and (4) the Monitoring Team has investigation files for some of the 26 incidents, but not all (a full accounting can be shared with DOC once the production of these incidents has been determined).

August 31, 2023 Request 9: All records related to the 2023 deaths in custody listed below to the extent not already produced. Certain of these files have been produced already. The Monitoring Team has at least some responsive files for each of the 2023 deaths in custody. DOC has also produced at least some records for two of the in-custody deaths (Zhao and Valles) as part of its production related of the 5 incidents identified in the May 26, 2023 Monitor's Report. The Monitoring Team is withholding production of these documents awaiting the Defendants position on whether it intends to exert privilege over these documents or any confidentiality designations.

August 31, 2023 Request 14: Teletype issued on July 3, 2023 regarding suspension of Captain Bond. The Monitoring Team has responsive documents to this request (including the MOC), but is withholding production of these documents awaiting the Defendants position on whether it intends to exert privilege over these documents or any confidentiality designations.

August 31, 2023 Request 18: The "Audit Plan" used for the facility "Security Audits" that commenced in May 2023, and all documents relating to any Security Audits conducted of DOC facilities, including but not limited to the "OPC Audit Working Papers" and any other documents reflecting the findings of the Security Audits (DOC 16th Compliance Report at 40-41). The Monitoring Team has a copy of the audit completed in May 2023. However, the Monitoring Team is withholding production of this document awaiting the Defendants position on whether it intends to exert privilege over these documents or any confidentiality designations.

August 31, 2023 Request 19: The Interim Security Plan referenced on page 15 of DOC's 16th Compliance Report. We believe DOC's reference to the "Interim Security Plan" on page 15 of DOC's 16th Compliance Report relates to the Interim Security Plan developed under the Second Remedial Order as described in the Monitor's October 14, 2021 Report at page 5. the Monitoring Team has a copy of the Interim Security Plan from November 5, 2021 and January 21, 2022. The City to confirm: (1) what does it mean by its reference to the "Interim Security Plan" and (2) its position on whether it intends to exert privilege over these documents or any confidentiality designations. The Monitoring is withholding production of these documents awaiting the Defendants position on both matters.

September 6, 2023 Follow-up Question 4: The City's August 23, 2023 letter regarding non-compliance states that there are calls every weekday with the DC of Security's Office, the leadership of each facility, and Assistant Commissioners from the DC of Facility Operations office to discuss the rapid reviews and issue any necessary corrective action or immediate discipline (page 3). When did those weekday calls begin, and please provide information regarding how many corrective actions and immediate disciplinary actions were issued (on a weekly or monthly basis, whichever best conforms to the information available)? Information regarding corrective actions and immediate disciplinary actions was provided in the addendum shared on September 6, 2023 to the July 28, 2023 Request on page 1. The Monitoring Team notes anecdotally that it is our understanding that the weekday calls have occurred for many years. However, the Monitoring Team requests that City reply to "When did those weekday calls begin?"

September 6, 2023 Follow-up Question 11: We have heard reports that Ruben Benitez has been demoted, which is of serious concern given the role we understand he was intended to play in ID following DC Hernandez' departure. To what position and unit is Mr. Benitez now assigned, and what was the basis for his demotion? The Monitoring Team requests that City reply to this request.

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Anna E. Friedberg

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From: Anna Friedberg <afriedberg@tillidgroup.com>

Sent: Wednesday, September 6, 2023 12:41 PM

To: Katherine Haas <khaas@legal-aid.org>; Neufeld, Sheryl (Law) <sneufeld@law.nyc.gov>; 'Scheiner, Alan (Law)' <ascheine@law.nyc.gov>; Mary Lynne Werlwas <MLWerlwas@legal-aid.org>; 'Powell, Jeffrey K. (USANYS) 4' <Jeffrey.Powell@usdoj.gov>; 'Iodice, Ashley (Law)' <aiodice@law.nyc.gov>; 'Wolecki, Hilary' <Hilary.Wolecki@doc.nyc.gov>; Kayla Simpson <KSimpson@legal-aid.org>; Debbie Greenberger <dgreenberger@ecbawm.com>; 'Jonathan S. Abady' <jabady@ecbawm.com>; 'Vasudha Talla' <vtalla@ecbawm.com>; 'Sana Mayat' <smayat@ecbawm.com>; 'Brar, Jenu (Law)' <jbrar@law.nyc.gov>; 'Khan, Mariam (LAW)' <markhan@law.nyc.gov>; 'Mooklal, Stefan (LAW)' <smooklal@law.nyc.gov>; 'Relkin, Rachel (LAW)' <rrelkin@law.nyc.gov>; 'Waite, Tisha (Law)' <twait@law.nyc.gov>; 'Eshkenazi, Lara (USANYS)' <Lara.Eshkenazi@usdoj.gov>; 'Joyce, Kimberly (DOC)' <Kimberly.Joyce@doc.nyc.gov>; 'LawNunezTeam' <LawNunezTeam@law.nyc.gov>; 'Schemitsch, John (Law)' <jschemit@law.nyc.gov>; 'Connard, Christopher' <Christopher.Connard@doc.nyc.gov>

Cc: Steve Martin <sjmart@sbcglobal.net>; Nunez-NYC <nunez-nyc@tillidgroup.com>

Subject: Nunez: Resolution of Outstanding Request Items, Meet and Confer (9/7) & Initial Response to 8/31 Requests

All,

In anticipation of the meet and confer tomorrow, and the update to the Court on September 11, 2023, we share the following information, updates and requests:

1. **July 28, 2023 Requests:** the Monitoring Team will share additional information in response to these requests by September 8, 2023.
2. **August 31, 2023 Requests:** attached is a chart with the preliminary responses to the August 31, 2023 requests. As noted in this document, the Monitoring Team will share additional information and updates on a rolling basis this month.
3. **Defendants Position on Production of Information:** The list outlined below in this email is intended to be a comprehensive list of the requests made by the Plaintiffs during the July meet and confer, the Plaintiffs' July 28th requests and the Plaintiffs' August 31st request for information that require the Defendant's position on privilege and confidentiality. The current status of each request is in green highlighted text. We hope that this list will help facilitate quick resolution of these issues.
4. **Resolution of Issues with Potential Privilege or Confidentiality:** the process to seek resolution on privilege and confidentiality designations remains of concern to the Monitoring Team as it has been protracted and there is currently no date certain for resolution. We request the Parties attempt to resolve as many of these issues as possible during the meet and confer tomorrow. To the extent that issues remain outstanding, the Monitoring Team recommends the Parties agree up on a date certain in which agreement is reached regarding production or the issues are raised with the Court for resolution. If the Parties are unable to reach agreement on a set deadline to resolve these matters then the Monitoring Team intends to recommend to the Court that it set a date by which these issues are resolved or raised with the Court to avoid this process being any further protracted and so the Monitoring Team may fulfill its obligations to respond to the requests made of them.

Thanks,
Anna

Production of Complete NCU Security Audits: It is the Monitoring Team's understanding the Parties have not resolved the dispute regarding the specific designations that may be affixed to these documents. Does this matter need to be resolved by Judge Swain?

Records related to the July 15, 2023 in-custody death: It is the Monitoring Team's understanding that the City is objecting to the production of this information as the incident is still under investigation by the Attorney General's office. Does this matter need to be resolved by Judge Swain?

July 28, 2023 Request 6: Data on the frequency of the use of Narcan by staff since January 1, 2022. The Monitoring Team does not have this information so Plaintiffs' Counsel may direct the request to Defendants. Plaintiffs requested information from the City on August 9, 2023 to be produced by August 23, 2023. The City has not replied to this request.

July 28, 2023 Request 7: The total number of housing unit lock downs since January 1, 2022, broken down by facility, housing unit, and month. The Monitoring Team does not have this information so Plaintiffs' Counsel may direct the request to Defendants. Plaintiffs requested information from the City on August 9, 2023 to be produced by August 23, 2023. The City has not replied to this request.

July 28, 2023 Request 8: Records relating to the Illustrative Examples 1-9 in the Monitor's July 10, 2023 report. On August 8, 2023, the Monitoring Team shared a list identifying the UOF or COD numbers for the 9 incidents. 5 of the 9 incidents are UOF incidents and in all 5 cases the closed Intake Investigation was produced in the monthly excels produced by DOC to the Parties. The Monitoring Team does have additional records (including the investigation, video, and reports) for

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From: Katherine Haas <khaas@legal-aid.org>
Sent: Thursday, August 31, 2023 3:14 PM
To: Anna Friedberg <afriedberg@tillidgroup.com>; Steve Martin <sjmart@sbcglobal.net>; Nunez-NYC <nunez-nyc@tillidgroup.com>
Cc: Neufeld, Sheryl (Law) <sneufeld@law.nyc.gov>; 'Scheiner, Alan (Law)' <ascheine@law.nyc.gov>; Mary Lynne Werlwas <MLWerlwas@legal-aid.org>; 'Powell, Jeffrey K. (USANYS) 4' <Jeffrey.Powell@usdoj.gov>; 'Iodice, Ashley (Law)' <aiodice@law.nyc.gov>; 'Shechtman, Paul (DOC)' <Paul.Shechtman@doc.nyc.gov>; 'Wolecki, Hilary' <Hilary.Wolecki@doc.nyc.gov>; Kayla Simpson <KSimpson@legal-aid.org>; Debbie Greenberger <dgreenberger@ecbawm.com>; 'Jonathan S. Abady' <jabady@ecbawm.com>; 'Vasudha Talla' <vtalla@ecbawm.com>; 'Sana Mayat' <smayat@ecbawm.com>; 'Brar, Jenu (Law)' <jbrar@law.nyc.gov>; 'Khan, Mariam (LAW)' <markhan@law.nyc.gov>; 'Mooklal, Stefan (LAW)' <smooklal@law.nyc.gov>; 'Relkin, Rachel (Law)' <rrelkin@law.nyc.gov>; 'Waite, Tisha (Law)' <twait@law.nyc.gov>; 'Eshkenazi, Lara (USANYS)' <Lara.Eshkenazi@usdoj.gov>; 'Joyce, Kimberly (DOC)' <Kimberly.Joyce@doc.nyc.gov>; 'LawNunezTeam' <LawNunezTeam@law.nyc.gov>; 'Schemitsch, John (Law)' <jschemit@law.nyc.gov>; 'Connard, Christopher' <Christopher.Connard@doc.nyc.gov>
Subject: Nunez: Information Request

Dear Monitoring Team,

Please see the attached, an additional request for information and records pursuant to Section XIX, paragraph 8 of the Consent Judgment.

Thank you,

Katie Haas